

NO PROTEST REQUIRED

8-17-90

JUN 20 1990

EIN: [REDACTED]  
Key District: [REDACTED]

Dear Applicant:

We have considered your application for recognition of exemption from federal income tax under section 501(c)(3) of the Internal Revenue Code.

The information submitted indicates that you were incorporated as a non-profit corporation on [REDACTED] to provide teachers of [REDACTED] with financial and legal support to assist in resolving their conflicts and job-related problems of an educational nature with school officials. You also propose to assist and support teachers with public interest litigation against the school system. Legal fees are paid directly to the attorneys. You also pay parking fees for members when they must meet with their legal counsel.

The criteria for selecting the teachers to support is based on the nature of the job-related conflict as it pertains to the teacher's ability to perform effectively. Teachers must provide proof that such conflicts must have resulted in involuntary transfers, adversely affected the teacher's careers, resulted in defamation of the individual's character, or were first amendment and human rights violations. You stated sponsored litigation shall include illegal terminations, demotions, transfers and other adverse actions.

You have no policy that a donor may not claim a charitable deduction for contributions to litigation that benefits the donor.

You have a loan from one of the board members. The loan funds were used to pay the balance on the lawyers' retainer fee for a suit that was initiated prior to the formation of the organization, but was the suit that resulted in the formation of the Fund. Loan documents were not made as all members agreed that once funds were available, the loan would be paid.

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Request copies to District

Date August 12, 1990

Section 501(c)(3) of the Code provides for the exemption from federal income tax of organizations organized and operated exclusively for educational purposes as long as, among other conditions, no part of the net earnings inure to the benefit of any private individuals or shareholders.

Section 1.501(c)(3)-1(a) of the Income Tax Regulations states, in part, that if an organization fails to meet either the organizational test or the operational test, it is not exempt.

Section 1.501(c)(3)-1(b)(4) of the regulations states, in part, that an organization is not organized exclusively for exempt purposes unless its activities are dedicated to an exempt purposes.

Section 1.501(c)(3)-1(c)(1) of the regulations states, in part, that an organization will not be operated exclusively for exempt purposes if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Section 1.501(c)(3)-1(c)(2) of the regulations states, in part, that an organization is not operated exclusively for exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals.

Section 1.501(a)-1(c) of the regulations states, in part, that the words "private shareholders" refer to persons having a personal and private interest in the activities of the organization.

Section 1.501(c)(3)-1(d)(1)(ii) of the regulations, in part, states that an organization is not organized or operated for exempt purposes unless it serves a public rather than a private interest. To meet this requirement it is necessary that the organization establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, or shareholders of the organization.

Section 1.501(c)(3)-1(d)(2) of the Income Tax Regulations provides that it is a charitable purpose to promote social welfare by defending "human and civil rights secured by law."

Rev. Rul. 80-278, 1980-2 C. B. 175, provides a three-part test to determine whether a litigating organization's activities will be considered permissible under section 501(c)(3) of the Code. The organization's activities will be

considered permissible under section 501(c)(3) if: (1) the purpose of the organization is charitable; (2) the activities are not illegal, contrary to a clearly defined and established public policy, or in conflict with express statutory restrictions; and (3) the activities are in furtherance of the organization's exempt purpose and are reasonably related to the accomplishment of that purpose.

Rev. Rul. 73-285, 1973-2 C.B. 174, provided that an organization that provides funds to defend members of a religious sect in legal actions involving substantial constitutional issues of state abridgement of religious freedom is exempt under section 501(c)(3) of the Code.

Rev. Rul. 69-175, 1969 C.B. 149 holds, in the situation where parents of the students attending a private school organized to provide bus transportation to those students, that "when a group of individuals associate to provide a cooperative service for themselves, they are serving a private interest."

Retired Teachers Legal Defense Fund, Inc., 78 T.C. 280, provides that an organization formed to protect the financial stability of the New York City Teachers' Retirement System failed to meet the organizational and operational tests of Section 1.501(c)(3)-1(c)(1) of the Income Tax Regulations because it was organized and operated for the substantial private purpose of promoting litigation to protect pension funds of retired teachers.

In Better Business Bureau of Washington, DC v. United States, 326 U.S. 279 (1945) it was held that the presence of a single non exempt purpose if substantial in nature, will preclude exemption under section 501(c)(3) of the Code, regardless of the number or importance of statutorily exempt purposes.

Your activities consist on raising funds and using those funds to provide financial and legal support to teachers in the [REDACTED] in resolving their conflicts and problems of an educational nature with school officials. Your activities include sponsoring litigation that includes terminations, demotions, transfers, and other adverse actions as well as human and civil rights litigation. Such activities and purposes are not "charitable" within the meaning of section 501(c)(3) as they are not limited to "human and civil rights" or to a "charitable class" of beneficiaries. In sponsoring and financing litigation that is not limited to charitable causes or "human and civil rights" purposes you are not

organized and operated within the meaning of section 501(c)(3) of the Code.

You appear to be operating for the private benefit of your members. Under section 1.501(c)(3)-1(d)(1)(ii) of the regulations, an organization is not operated for exempt purposes unless it serves a public rather than a private interest.

Accordingly, we have concluded that you are neither organized nor operated exclusively for exempt purposes and are not entitled to exemption under section 501(c)(3) of the Code.

Donors may not deduct contributions to you under section 170 of the Code. You are required to file federal income tax returns.

You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement, signed by one of your officers, must be submitted within 30 days from the date of this letter. You also have the right to a conference in this office after your statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to be represented by someone who is not one of your officers, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practices Requirements.

If you do not protest this proposed ruling in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Code provides, in part, that a declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service.

If we do not hear from you within 30 days, this ruling will become final and copies will be forwarded to your key District Director. Thereafter, any questions about your

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federal income tax status should be addressed to that office.  
The appropriate State officials will be notified of this action  
in accordance with section 6104(c) of the Code.

Sincerely yours,

(Signed) ██████████

████████████████████  
Chief, Exempt Organizations  
Rulings Branch 2

✓ bcc: ██████████

bcc: State Officials - ██████████

| Code   | Initiator  | Reviewer   | Reviewer | Reviewer | Reviewer | Reviewer | Reviewer |
|--------|------------|------------|----------|----------|----------|----------|----------|
| Sumame | ██████████ | ██████████ |          |          |          |          |          |
| Date   | 6-15-90    | 6-15-90    |          |          |          |          |          |